

THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D. C. 20505

OLC

Office of Legislative Counsel

OLC 78-3053/a

Mr. Keith Raffel
Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

Dear Keith:

The Agency has no objection to the Committee's draft report entitled "National Security Secrets: Their Proper Place in the Law" from a security or classification standpoint. We do, however, have some comments and observations on other aspects which are set forth in the enclosed memorandum.

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Additionally, we have some question whether embarrassment to the CIA would have been grounds for dismissal of the indictment of [redacted] as stated at mid-page [redacted]. However, the two most knowledgeable persons on this particular issue will not be available for comment until 6 September 1978.

Sincerely,

[redacted]

Assistant Legislative Counsel

STA

Enclosure

CIA Comments on Draft Report
Entitled "National Security Secrets:
Their Proper Place in the Law"

1. The draft report of the Select Committee on Intelligence Subcommittee on Secrecy and Disclosure entitled "National Security Secrets: Their Proper Place in the Law" (hereinafter the report) is a noteworthy attempt to come to grips with a complex, difficult subject: the proper balancing of the often at odds objectives of enforcing the criminal laws and protecting national security interests. These objectives both rank very high on any scale of values and the Agency recognizes that the most desirable solution in cases of conflict is one that serves both interests. Unfortunately, it is not clear under our system of law, with its guarantees of public and jury trial and broad discovery rights for an accused, that both interests can always be served. No agency deserves blame for the dilemma posed by cases involving legitimate and important secrets and serious crimes. The dilemma is a product of the system and human behavior which, of course, is not controllable. As the report points out, the key to the proper resolution of this dilemma is the process by which the decision whether to prosecute such cases is reached.

2. In light of the above comments, the report gives the unwarranted impression that national security secrets have thwarted numerous prosecutions in a wide variety of situations.

a. Specifically, there are repeated references in the first 21 pages to perjury, extortion, bribery, narcotics and murder cases which have been hampered because of the dilemma posed by the need to use classified information. See pp. 5-6, 9, 17, and 21 (twice). The quoted testimony of [redacted] is inappropriate for adoption by the report. Not only is it disparaging of the intelligence profession, but it borders on hyperbole.

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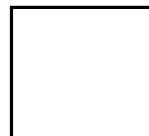
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MMP - FYI

DFM gave me this this morning -- it has been overtaken by events -- Tony Lapham got in the act.

Please return and I will notify Registry and destroy.



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